



US Army Corps  
of Engineers  
St Paul District

# Special Public Notice

ISSUED: April 28, 2009

EXPIRES: May 28, 2009

REFER TO: 2004-159553-KJU

SECTION: 404 – Clean Water Act

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1. Interested Parties: The District Engineer, U.S. Army Corps of Engineers, St. Paul District proposes to issue an order assessing a Class 1 Administrative Penalty against the International Falls - Koochiching County Airport Commission for violation of a permit granted under Section 404 of the Clean Water Act, 33 U.S.C. 1344.

2. Permit Involved and Alleged Violation: The Department of the Army issued authorization to the International Falls - Koochiching County Airport Commission under an individual permit on June 12, 2006 to construct airport improvements in wetlands adjacent to an unnamed tributary of the Rainy River. The permit authorized the discharge of dredged and fill material in 14.98 acres of wetland for expansion of the runway, construction of a parallel taxiway, relocation and reinstallation of navigational aids on the extended runway, and expansion of the general aviation hangar area.

The information in the Corps' administrative record indicates the permit was violated as follows:

On October 29, 2008 Corps staff conducted a routine compliance inspection of the general aviation hangar area. At the time of the inspection, land clearing, grading, and some filling had been completed in the hangar expansion area including work in wetlands previously determined to be waters of the United States. During the inspection, the Corps staff present became concerned that the footprint of the impacts in wetlands was inconsistent with the design plans submitted with the permit application that formed the basis of the Corps Clean Water Act Section 404 permit. After analyzing data collected during the compliance inspection along with detailed maps of the authorized project the Corps determined the Airport Commission had not complied with the terms and/or conditions of the Department of the Army permit. Specifically, the permit authorized the discharge of dredged and fill material in approximately 1.64 acres of wetland for construction of the hangar area. The data collected on October 29 revealed that the design plan for the taxiway and hangar expansion area had been revised by changing the point of access to the area and widening the footprint of the taxiway and hangar areas. While the quantity of wetland impact measured at the site was close to the authorized impact, 1.66 acres versus 1.64 acres, approximately 0.81 acre of the documented wetland impact occurred in locations not authorized by the permit including construction of a drainage ditch from the hangar area north to an unnamed tributary to the Rainy River. The Corps later confirmed that additional wetland impacts would be required to construct any aircraft hangars along the taxiway as a result of the revisions to the design plans.

3. Authority for Proceeding: This administrative penalty proceeding is initiated under the authority of 33 U.S.C. Section 1319(g) and 33 CFR Part 326.6. The procedure for assessing civil penalties in cases such as this is outlined in the statute and the regulation. Following the discovery and investigation of a violation of a permit, notice is given to the permittee, the appropriate State Agency, and the public.

**CEMVP-OP-R (2004-159553-KJU)**

**SUBJECT: Proposed Class I Administrative Penalty against the International Falls -  
Koochiching County Airport Commission**

The permittee, the State, or any member of the public is afforded the opportunity to submit comments within 30 days. If requested by the permittee, a hearing will be held before a Presiding Officer who will submit a report and recommended decision to the District Engineer. The District Engineer will issue a Final Order on the case to the permittee. Public participation in the hearing is permitted.

4. Penalty Proposed: The amount of the penalty proposed in this case is \$3,000. However, this proposal is subject to revision in the interests of justice after all evidence and comments have been received and reviewed. The amount of the penalty that the District Engineer is authorized to assess as a Class 1 penalty is \$11,000 per violation and not more than \$27,500 total. In a case involving multiple violators, each violator is subject to a separate penalty.

5. Request for Hearing: The permittee has 30 days following receipt of the notice of Proposed Penalty to request a hearing. A written request, by the permittee, for a hearing should be directed to the District Engineer within this designated period and must state the specific reasons for requesting a public hearing. The request should specify, in summary form, the factual and legal issues in dispute and the specific grounds for defense. The permittee has a right to present evidence at the hearing, however, he/she may not challenge the permit condition(s) or limitation(s) which is the subject matter of this order.

6. Comments/Administrative Record: During the 30-day comment period, any person may submit written comments on the Proposed Penalty Order. These comments should be sent to the District Engineer within this designated comment period. Any submitted comments will be included in the administrative record relating to the Proposed Penalty Order, which will be available for inspection during regular business hours at the U.S. Army Corps of Engineers, St. Paul District Regulatory Branch, 190 5<sup>th</sup> Street East, Suite 401, St. Paul Minnesota. (The administrative record is subject to provisions of law restricting the disclosure of confidential information.) Comments should be directed to:

U.S. Army Corps of Engineers, St. Paul District  
ATTN: Benjamin Cox (CEMVP-OP-R)  
190 5<sup>th</sup> Street East, Suite 401  
St. Paul, Minnesota 55101

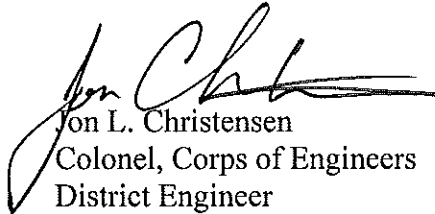
7. Public Hearing: The permittee and all persons who file comments will be given notice of any hearing held on this case. The permittee and all commenters will have a reasonable opportunity to present evidence at the hearing, if a hearing is held.

8. Final Decision: If the permittee does not request a hearing, the District Engineer may issue the Final Order on this violation on or after 30 calendar days following receipt of this formal notice by the responsible party.

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9. Post Decision Hearings/Appeal: Any Final Order issued under these procedures shall become effective 30 calendar days following issuance unless (1) a petition to set aside the Order and to hold a hearing is filed by any person who commented on the Proposed Order and the petition is granted, or (2) an appeal is filed with the United States District Court under 33 U.S.C. 1319(g)(8).



Jon L. Christensen  
Colonel, Corps of Engineers  
District Engineer

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.